

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
: PRELIMINARY ORDER
-v.- : OF FORFEITURE AS TO
FABIO BRETAS DE FREITAS, : SUBSTITUTE ASSET
Defendant. : S3 19 Cr. 257 (LTS)
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WHEREAS, on or about August 8, 2019, FABIO BRETAS DE FREITAS (the "Defendant") was charged in a one-count Superseding Information S3 19 Cr. 257 (LTS) (the "Information"), with conspiracy to commit wire fraud and commodities fraud, in violation of Title 18, United States Code, Section 1349 (Count One);

WHEREAS, on or about August 8, 2019, the Defendant pled guilty to Count One of the Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation and agreed to forfeit to the United States, a sum of money equal to \$5,393,100.00 in United States currency, representing proceeds traceable to the offense charged in Count One of the Information;

WHEREAS, on or about February 27, 2020, the Court entered an Amended Consent Preliminary Order of Forfeiture/Money Judgment (the "Order of Forfeiture") imposing a money judgment against the Defendant in the amount of \$5,332,100.00 in United States currency (the "Money Judgment") (D.E. 29);

WHEREAS, the entire amount of the Money Judgment against the Defendant remains unpaid;

WHEREAS, as a result of acts and omissions of the Defendant, the Government, despite the exercise of due diligence, has been unable to locate, obtain or collect assets traceable to the proceeds of the Defendant's offenses; and

WHEREAS, the Government has identified the following specific assets in which the Defendant has an ownership interest:

\$218.74 in United States currency seized from JP Morgan Chase Bank Account number [REDACTED] 8536 held in the name of Fabio Bretas de Freitas or Zenilda Fernandez de Olivera Freitas pursuant to a federal seizure warrant on or about December 18, 2018,

(the "Substitute Asset");

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. All of the Defendant's right, title and interest in the Substitute Asset is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853(n).

2. Upon entry of a Final Order of Forfeiture, the Substitute Asset shall be applied towards partial satisfaction of the Money Judgment entered against the Defendant

3. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States shall publish for at least thirty (30) consecutive days on the official government internet forfeiture site, www.forfeiture.gov, notice of this Preliminary Order of Forfeiture as to Substitute Asset and provide notice that any person, other than the Defendant in this case, claiming an interest in the Substitute Asset must file a petition within sixty (60) days from the first day of publication of the notice on this official government internet site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

4. This notice referenced in the preceding paragraph shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Substitute Asset, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title and interest in the Substitute Asset and any additional facts supporting the petitioner's claim and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

5. The United States may also, to the extent practicable, provide direct written notice to any person, other than the Defendant, known to have an alleged interest in the Substitute Asset, as a substitute for published notice as to those persons so notified.

6. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Substitute Asset pursuant to Title 21, United States Code, Section 853(n) in which all third-party interests will be addressed.

7. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture as to Substitute Asset, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Preliminary Order of Forfeiture as to Substitute Asset to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Asset Forfeiture Unit, One St. Andrew's Plaza, New York, New York 10007.

Dated: New York, New York
December 18, 2023

SO ORDERED:

/s/ Laura Taylor Swain

HONORABLE LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE